

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

W44

P.A.S.: Special Permit #1161A

DATE: April 19, 2001

PROPOSAL: Terri Dolezal, of Aliant Cellular, d.b.a. Alltel, has requested an amendment to a Special Permit for a wireless communications facility to replace existing antennas and thereby increase the permitted height of the facility from 210 feet to 226'.

GENERAL INFORMATION:

APPLICANT: Terri Dolezal
Aliant Cellular, d.b.a. Alltel
1440 M Street
P.O. Box

CONTACT: Same

LOCATION: 400 S. 84th Street

LEGAL DESCRIPTION: Lot 32 I.T. located in the NW 1/4 of Section 26, T10N, R7E, Lincoln, Lancaster County, Nebraska.

EXISTING ZONING: O-3 Office Park District

EXISTING LAND USE: Existing telecommunications tower and associated ground equipment.

SURROUNDING LAND USE AND ZONING: Surrounded by O-3 zoning with office uses to the north and south, parking lots to the west, soccer fields to the east.

COMPREHENSIVE PLAN SPECIFICATIONS: Shown as Commerical in the 1994 Lincoln-Lancaster County Comprehensive Plan. The application is consistent with the goals to:

- Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements.
- Protect and enhance features which give Lincoln and Lancaster County its distinctive character, supporting a desirable quality of life.

ANALYSIS:

1. This is a request to replace antennas on an existing tower and thereby increase the height from 210 feet to 226 feet.
2. If the height of the tower was not increasing, the application could have been handled administratively.
3. The tower was previously approved under Special Permit #1161. The antennas for four additional wireless providers and the associated base equipment were approved administratively.
4. The request meets the standards for evaluation detailed in Chapter 27.68 of the Zoning Ordinance.
5. The existing antennas must be removed to comply with a lawsuit in which Alltel is listed as a defendant (MLMC Limited vs Alltel Corp., Civil Action #99 781 SLR, in the United States District Court in Delaware.)
6. The applicant states that key sites were chosen for antenna replacement to continue to provide analog service in Lincoln.

STAFF RECOMMENDATION:

Approval

CONDITIONS:

Site Specific:

1. This approval permits a 226 foot tall wireless communications facility for a period of 15 years.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 2.1.1 Revise the site plan to show the location of all previously approved buildings.

- 2.1.2 Revise the landscape plan to show the location of all previously approved landscaping.
 - 2.1.3 Approval for the increased height shall be received from the FAA.
 - 2.1.4 The structural analysis shall be approved by the Building and Safety Department.
- 2.2 The permittee shall post a surety, approved by the City Attorney, in the minimum amount necessary to guarantee the removal of the facilities. The surety may not be revoked or terminated during the term of the permit.
- 3. The following conditions are applicable to all requests:
 - 3.1 Before operating this personal wireless facility, all development and construction is to comply with the approved plans.
 - 3.2 The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.
 - 3.3 The tower shall be inspected and maintained in accordance with the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. At the time of this Special Permit, those standards were contained in the TIA/EIA-222-F. The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety.
 - 3.4 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
 - 3.5 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.6 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 3.7 The permitted shall, within 10 days of written demand, reimburse the City for all direct and indirect costs and expenses as provided in Section 27.68.090, in connection with the issuance and review of this permit.
- 3.8 As a part of this approval, the permittee agrees that the permittee, successors and assigns shall, at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgements for damage arising out of, resulting from, or alleged to arise out of or result from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.
- 3.9 The City Clerk is to file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee is to pay the recording fee.
4. The site plan as approved with this resolution voids and supersedes all previously approved site plans and resolutions.

Prepared by:

Jennifer L. Dam, AICP
Planner